



MILAN POLICE DEPARTMENT

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Jerry Stephens
Chief of Police

December 27, 2016

N.M. Department of Public Safety
Law Enforcement Academy
4491 Cerrillos road
Santa Fe, NM 87507

C/o Darlene Montoya
P.O. Drawer 1508
Santa Fe, NM 87504-1508

Ms. Montoya:

Please find enclosed a copy of the Milan Police Department Deadly Force Policy. The Milan Police Department does not currently have, nor has it had in my tenure here, a written policy addressing officer-involved shootings.

I am retiring effective Friday, December 30, 2016, but I will make myself available should the need arise. I can be reached through the Milan Police Department. Thank you for your attention in this matter.

Sincerely,
Jerry Stephens
Jerry Stephens
Chief of Police

11 JAN -3 AM 9:35



WARREN H. MATHERS
MAYOR

EDDIE B. CORLEY JR.
MAYOR PRO-TEM

Village of Milan

P.O. BOX 2727 • 623 URANIUM ST.
MILAN, NEW MEXICO 87021

TRUSTEES

MARY FRANCES WALDEE
TOM ORTEGA
ELIZABETH LOPEZ

VILLAGE OF MILAN POLICE DEPARTMENT POLICY

PASSED AND APPROVED BY THE GOVERNING BODY OF
THE VILLAGE OF MILAN ON NOVEMBER 15, 1989

3-2 DEADLY FORCE

It is the policy of the Milan Police Department that members exhaust all other means of apprehension and control before resorting to the use of deadly force. "Deadly force" as used in this policy is defined as that force which is intended to cause death or great bodily harm or that a reasonable and prudent person would consider likely to cause death or great bodily harm.

3-2-1 In the performance of his duties, and after all other reasonable means have been weighed, an officer may use deadly force:

- A. An officer may use deadly force when necessary to effect an arrest when he has probable cause to believe that a suspect has committed or is attempting to commit a felony involving the use or threatened use of deadly force.
- B. An officer may use deadly force if he or another person is the victim of an assault which is likely to cause death or great bodily harm. An officer is not required to retreat but may stand his ground and defend himself or another person even to the point of using deadly force against the assailant. The rule of self defense when necessary to prevent death or great bodily harm is applicable, regardless of age or sex of the assailant.
- C. An officer may use deadly force in the killing of an animal to prevent harm to the officer or another, or when the animal is so badly injured that humanity requires its relief from further suffering, or when requested by Animal Control.

A seriously wounded or injured animal may normally be destroyed after attempts have been made to request assistance from the agencies (Animal Control, Animal Humane Association of New Mexico Inc., New Mexico Game and Fish Department, etc.) responsible for the disposal of animals. The target area should be the head unless the possibility of rabies exist.

3-2-2 The deliberate discharge of a firearm by an officer is permissible for target practice or competition at an approved range for authorized purpose.

3-2-3 An officer may draw his firearm when necessary in order to take a suspected felon into custody.

RULES:

3-2-4 An Officer will not use deadly force:

- A. An Officer will not use deadly force or fire his weapon to effect an arrest, unless he has probable cause to believe that a suspect has committed or is attempting to commit a felony a suspect has committed or is attempting to commit a felony involving the use or threatened use of deadly force.

3-1 NON-DEADLY FORCE

It is the policy of the Village of Milan Police Department that members exhaust all other means of apprehension and control before resorting to the use of force. The department has equipped each officer with tools e.g., sidehandle baton, and chemical agent (mace) to be used in the event that force becomes necessary. The use of department issued mace is preferable to the use of the sidehandle baton. The use of these non-lethal devices should allow the officer to avoid hand-to-hand confrontation.

3-1-1 Defensive action: Use of non-deadly force and defensive actions are justified to be used by officers against another person when and to the extent that it is necessary. The following is considered use of non-deadly force and defensive actions:

A. Any striking force used, including striking the sidehandle baton or with other instruments such as fists, flashlights, or walkie talkies.

B. Any injury to a suspect that results from action by an officer or some action under his control. This could include an injury cause by a sidehandle baton, restraining hold, or could include a bite by a K-9 that is under the control of the assigned handler.

C. Use of chemical agent.

3-1-2 When making a lawful arrest an officer may use that amount of non-deadly force necessary to overcome resistance.

3-1-3 Officers may use force to defend themselves or a third person from what they reasonably believe to be the use or imminent use of non-deadly force while preventing or attempting to prevent an escape.

3-1-4 When it is determined that force is necessary, it will be used with discretion and only to a degree sufficient to overcome resistance, or to protect oneself or another.

3-1-5 Department issued mace will be carried by uniformed members of the department and used only in accordance with departmental procedures.

3-1-6 Uniformed officers of the department will be equipped with the sidehandle baton while on duty. only those officers approved in the training in the use of the sidehandle baton are authorized to utilize it.

3-1-7 Striking a person's head with any implement will be avoided, unless the officer has reason to believe that he is in immediate danger of great bodily harm.

- 3-1-8 All other instruments of self defense not authorized by the department will not be carried.
- 3-1-9 Choke holds are not authorized and shall not be utilized by members of this department as a means of non-deadly defensive action.
- 3-1-10 In all instances where physical force or defensive actions are used, officers shall write an offense report and a supplementary report of the incident and submit it to their supervisor within 24 hours of the event.

Officers using defensive force as defined in 3-1-1 will write a detailed account of the event.

- A. The offense report will give a brief description of the events.
- B. The supplementary report must include a detailed description of the events leading to the resistance or use of defensive action, the amount and type of action used, the nature and extent of injuries to the officers and subjects, the identity of combatants, officers involved, witnesses, and other pertinent information. Officers will advise their supervisor of the incident and provide him with a copy of the report.
- C. If an officer is unable to write the reports due to personal injury, an offense report will be written by the assisting officer and the supplementary report will be written by the injured officer's on duty supervisor in accordance with the above requirements.
- 3-1-12 Supervisors will insure the report is sufficiently detailed before signing it. Supervisors will not accept vague references such as "Necessary force was used to effect the arrest." He should review the event to assure compliance with departmental guidelines for use of force. He should also provide counseling or other action needed to correct any deficiencies. He will forward a copy of the report to the Chief of Police.
- 3-1-13 Commanders are ultimately responsible for insuring supervisors and subordinates conform to the guidelines outlined in reference to use of force or defensive actions. The Commander will then forward a copy of the report to the Chief of Police who will determine if the defensive action is justified. If not justified, the report will remain in the employee's discipline file for 6 months and proper disciplinary action carried out.
- 3-1-14 The disciplinary action in violation of any part of this section will range from a letter of reprimand to immediate dismissal and based upon the circumstances of the incident in question, to the discretion of the Chief of Police.